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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Petition for Expedited)
Rulemaking to Establish)
Reporting Requirements and) RM 9101
Performance and Technical Standards)
for Operational Support Systems)

COMMENTS OF
AMERICAN COMMUNICATIONS SERVICES, INC.

American Communications Services, Inc. ("ACSI"), by its attorneys, and pursuant to the Commission's June 10, 1997 Public Notice (DA 97-1211) hereby comments in support of the Petition for Expedited Rulemaking ("Petition") filed herein by LCI International Telecom Corp. ("LCI") and the Competitive Telecommunications Association ("CompTel") on May 30, 1997. ACSI agrees wholeheartedly that an expedited rulemaking regarding access to incumbent local exchange carrier ("ILEC") operations support systems ("OSS") is urgently needed. Given the nearly complete failure of ILECs to comply with a general requirement that they provide nondiscriminatory access to OSS, specific rules defining OSS, specifying near term deployment and establishing enforcement procedures are required.

Introduction

ACSI is a provider of integrated local voice and data services to commercial customers primarily in mid-size metropolitan markets in the southern United States. The Company initiated service as a competitive access provider ("CAP"), deriving substantially all of its revenues from the sale of dedicated services such as special access, switched

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transport and private line services. Beginning in late 1996, however, ACSI began to expand aggressively into the provision of local switched voice services as a competitive local exchange carrier ("CLEC"). The Company's local switched services include local exchange services (dial tone), advanced ISDN and enhanced voice services. ACSI provides local switched services over its own network (using unbundled ILEC network elements) in some markets and through resale of ILEC local exchange services in other areas.

ACSI has 24 operational local networks and 12 additional local networks under construction. Development work is actively underway to expand to 50 local networks operating or under construction by December 1998.

As an operational CLEC, ACSI has had the somewhat unusual opportunity to experience first-hand the failings of the current ILEC ordering and provisioning systems. ACSI has entered into local interconnection agreements with BellSouth, Southwestern Bell, U S West, Bell Atlantic, GTE and Sprint/United. As described hereafter, ACSI's initial attempts to utilize ILEC unbundled network elements ("UNEs") and local resale have been significantly impeded by ineffective ILEC systems for ordering, provisioning, maintenance and repair. Until these problems are resolved, presumably through access to OSS systems at parity to ILEC access, widespread and effective local exchange competition will be illusory.

I. *Non-Discriminatory Access to OSS is Critical to the Effective Use of UNEs and ILEC Resale*

The Commission recognized the critical role of ILEC OSS systems in its *Local Competition Order* issued last August.¹ The Commission stated that "it is absolutely necessary for competitive carriers to have access to operations support systems functions in order to successfully enter the local service market."² Indeed, the Commission found that "operations support systems functions are essential to the ability of competitors to provide services in a fully competitive local service market,"³ and that "operational interfaces [to the OSS] are essential to promote viable competitive entry."⁴ Unless CLECs are permitted to access the ILECs' OSS "in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not altogether precluded from competing."⁵

These observations have proven to be prophetic. ACSI has embarked on an aggressive program of developing and deploying competitive local exchange services.

¹ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996) ("*Local Competition Order*"), *motion for stay denied*, 11 FCC Rcd 11754 (1996), Order on Reconsideration, 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996), *further recon. pending, appeal pending sub nom. Iowa Util. Bd. v. FCC* and consolidated cases, No. 96-3321 et al., partial stay granted pending review, 109 F.3d 418 (8th Cir. 1996), order lifting stay in part (8th Cir., No. 1, 1996), motion to vacate stay denied, 117 S. Ct. 29 (1996).

² *Local Competition Order*, ¶ 521.

³ *Id.* ¶ 522.

⁴ *Id.* ¶ 516.

⁵ *Id.* ¶ 518.

However, in most cases, its ability to deliver these services is dependent upon the efficient, accurate and timely installation of ILEC UNEs or conversion of ILEC end user local exchange services. Since substantial volumes of such orders cannot be processed efficiently on a manual basis, electronic access to pre-ordering, ordering, provisioning, maintenance and repair, billing and similar OSS systems is vital. The systems must have a throughput capacity adequate to support large numbers of orders placed simultaneously by numerous CLECs to avoid large logjams in the system. As importantly, CLECs must have access to the same information at the same level of priority as the ILECs ascribe to themselves. Failure to assure such adequate and nondiscriminatory access is sure to create processing delays and errors which will create a perception of CLEC service inferiority in the eyes of affected end users.

ACSI has executed comprehensive agreements for local interconnection, access to UNEs and resale with four RBOCs and the two largest independent ILECs. The first of these interconnection agreements was executed nearly a year ago. Nonetheless, as of this date, ACSI has been unable to obtain comprehensive and nondiscriminatory access to the OSS from any ILEC. While the details vary greatly among ILECs, in some cases ACSI's orders remain subject to facsimile submission and/or manual processing. Even where electronic bonding is available for total service resale, it often is not accessible for UNEs -- particularly for so-called "complex" services. As described hereafter, this has led to unacceptable provisioning intervals, human error, and troublesome maintenance and repair delays.

As suggested by the Joint Petitioners, resolution of these problems is an utmost priority for local service competitors. Experience has shown that nondiscriminatory access

to OSS is the local exchange equivalent to "equal access" for long distance competitors. Until it is made available in a functionally equivalent fashion, local competitors will be severely handicapped.

II. *BellSouth's Failure to Provide Equal Access to OSS Crippled ACSI's Initial Efforts in Georgia*

ACSI and BellSouth entered into a local interconnection agreement on July 25, 1996, which expressly provides that, wherever facilities are available, BellSouth will install loops by the customer due date, that cutovers will ordinarily be accomplished with a service disruption of no more than 5 minutes, and that installation intervals will be at parity to those achieved when BellSouth provides service to its own end users. Unfortunately, when ACSI submitted its first orders for unbundled loops in Columbus, Georgia during November 1996, BellSouth was completely unprepared to honor its commitments. Despite the fact that it had a lead time of 10 months after enactment of FTA 96, and 5 months after execution of the Interconnection Agreement, BellSouth proved to be totally incapable of processing and installing orders for unbundled loops and Service Provider Number Portability ("SPNP"). Installation was routinely delayed substantially. Customers were put out-of-service for hours. SPNP installation was not coordinated and, consequently, affected customers could not receive inbound calls. Even after service was installed, customers would inexplicably suffer after-the-fact disconnections. ACSI soon was forced to temporarily suspend its submission of loop orders to preserve its own business goodwill.

This was not a situation involving isolated start-up problems. It was a wholesale systems failure attributable to BellSouth's unwillingness to dedicate adequate

resources to meet its legal obligation to provide reasonable access to UNEs and local resale. The OSS needed for BellSouth to honor its statutory, regulatory and contractual local interconnection obligations was never developed or deployed. There was no timely and dependable way to place orders, no automated means to track orders and escalate problems, and no way to monitor and measure BellSouth's performance.

These circumstances caused ACSI to file a formal complaint with the Commission against BellSouth on January 6, 1997.⁶ Much of the record in that proceeding is confidential and has been submitted under seal. However, ACSI submits that there is substantial information in the record of that proceeding which demonstrates the complete disregard of BellSouth to deploy adequate ordering and provisioning systems, and the real world affect this failure had on the development of local competition in Georgia. ACSI strongly suggests that the Commission consider the record developed in that case in assessing whether additional FCC action is required to ensure that ILECs provide nondiscriminatory access to OSS.

III. Definition, Standardization, Deadlines and Enforcement are Key to the Nondiscriminatory Access to OSS

The Commission understandably believed that it addressed and resolved this issue last August when promulgating its UNE unbundling rules. The rules specifically required that ILECs provide "nondiscriminatory access" to OSS, including "preordering, ordering, provisioning, maintenance and repair, and billing functions," *no later than January*

⁶ *In the Matter of ACSI v. BellSouth Telecommunications, Inc.*, File No. E-97-09.

1, 1997.⁷ Despite this clear admonition, most ILECs with which ACSI negotiated refused to commit contractually to *any* specified timeline for implementation of the OSS requirements. Moreover, the ink on the *First Report and Order* was hardly dry before U S West announced that it would not comply with the January 1, deadline.⁸ U S West said that electronic access for so-called "design" services and UNEs would be delayed at least six months. In ACSI's experience, U S West's promised CLEC OSS "gateway" still is not available in any reasonable fashion with adequate functionality. In that sense, U S West does not differ from most ILECs -- few have a comprehensive OSS system available to CLECS for provisioning and use of UNEs.

ACSI strongly agrees with the Joint Petitioners that additional and expanded rules are required which clearly spell out the ILECs OSS obligations. First, the new rules should define OSS systems as expansively as possible. Electronic access to OSS must be made available to all pre-ordering, ordering, provisioning and maintenance functions currently used by the ILECs themselves. Importantly, electronic access must be provided for both resale *and* UNEs, *including* common combinations and so-called "complex" services. Technical standards for interfaces also should be specified. Second, performance standards should be developed. Any performance standards established by ILECs for their own end user services should serve as a minimum, but, in ACSI's experience, catch-all performance standards must be established for use where ILECs have not established any. Third, systems must be created which enable CLECs to monitor ILEC performance, by statistical

⁷ 47 C.F.R. § 51.319(g).

⁸ Petition for Waiver by U S West Communications, Inc., filed in CC Docket No. 96-98 on December 11, 1996.

measurement of service quality both in absolute terms and relative to the service levels afforded by the ILEC to itself. The systems should be capable of measuring ILEC performance in each discrete local market, and monitor performance separately in serving residential and business customers. Fourth, the Commission needs to set a firm near-term deadline for deployment and tough enforcement measures for ILECs who fail to comply.⁹ Unfortunately, the history of ILEC foot-dragging on this topic demonstrates that at least some ILECs will take advantage of any ambiguity, and more definition is required if nondiscriminatory access to OSS is to become a reality.

In addition, Commission intervention is required to ensure that access to ILEC OSS is standardized. As mentioned above, ACSI already is submitting UNE and local resale orders to six ILECs. Unfortunately, most of these ILECs appear to be designing OSS access in ways which differ materially. The interfaces, services provided and information accessed can vary in important ways. This greatly complicates CLEC efforts to create complementary systems, and to utilize OSS access in an efficient and effective fashion. The responsible industry forums, which often are dominated by ILEC interests, have made little progress in creating and enforcing a standardized approach. Thus, ACSI submits that FCC intervention is necessary to realize the Commission's stated goal that systems be developed which "eliminate the need for new entrants to develop multiple-interface systems, one for each incumbent."¹⁰

⁹ At a minimum, it should be made clear that any failure to comply will be fatal to any RBOC request for section 271 relief.

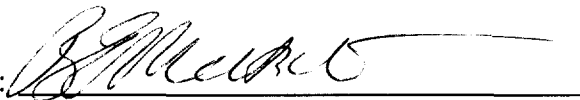
¹⁰ *Local Competition Order*, 11 FCC Rcd at 15,768.

Conclusion

For the foregoing reasons, ACSI strongly supports the Petition filed by LCI and CompTel, and respectfully urges the Commission to establish specific, uniform OSS standards and requirements on an expedited basis.

Respectfully submitted,

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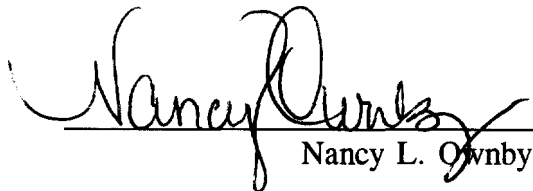
Dated: July 10, 1997

CERTIFICATE OF SERVICE

I, Nancy L. Ownby, hereby certify that a true and correct copy of the foregoing Comments of American Communications, Inc., have been sent via hand delivery, to the following this 10th day of July, 1997.

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